California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman

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Linda S. Adams
Agency Secretary

Arnold Schwarzenegger
Governor

July 10, 2006

Mr. Steven Westbrook
Reservation Ranch
P.O. Box 75
Smith River, CA 95567

Dear Mr. Westbrook:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Reservation Ranch, Smith River Estuary Enhancement Pilot Project

File: Reservation Ranch – Smith River Estuary Enhancement Pilot Project
WDID No. 1B06052WNDN

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341); in response to your request (applicant) for Water Quality Certification for the *Reservation Ranch Smith River Estuary Enhancement Pilot Project,* located on the Reservation Ranch property (APN 103-010-01), (S28-29 and 32, 33, T18N, R1W) Smith River, Del Norte County. On April 26, 2006, the Regional Water Board received your application and a $500.00 processing fee. On June 14, 2006, we posted information describing the project on the Regional Water Board's website for a 21-day public review and comment period. We did not receive any public comments on this project.

Project Description: The purpose of the project is to enhance salmonid habitat in the Smith River, while investigating the effect of increases in slough habitat and cover on the number of anadromous salmonids in the Smith River Estuary. Scientific studies indicate that degradation in the Smith River Estuary has resulted in a loss of rearing habitat, food sources and cover in the Estuary for resident populations of salmon and steelhead. The project plan is based on collaborative efforts of a team of geologists, biologists, National Marine Fisheries staff, watershed professionals and the landowner. The project activities will be conducted on the Reservation Ranch property (APN 103-010-01), an existing gravel mine site. The first project component will involve skimming approximately 1,500 cubic yards of material from a gravel bar in the uppermost portion of the project area, in order to allow emergent vegetation to colonize, providing habitat opportunities for salmonids. The second component of the project involves excavation of river sediments from three tidally influenced side channel habitat areas

and installation of large rootwads (lower trunk and root fan of a large tree) and logs for enhancement of salmonid habitat.

Skimming activities will occur no closer than 5 feet from the wetted edge of the Smith River and 300 feet from the upstream break. Pre and post extraction surveys will be conducted to determine the optimum elevations and contours, the slope post extraction will be at least a 2% grade and the elevation not less than one foot above the adjacent water surface level of the Smith River. National Oceanic and Atmospheric Administration (NOAA) guidance stipulates that skim type extraction must meet the current 35% exceedence or 2-foot vertical offset criteria. Extraction material will be temporarily stockpiled on the gravel bar but must be removed by October 1. After the applicant has removed the aggregate to the approved extraction design lines and grades, the extraction area will be re-graded as necessary to leave no depressions or berms that may potentially trap fish or cause impacts to surrounding habitats. The project site is not located within designated Wild and Scenic portions of Smith River.

The channel enhancement component of the project will involve excavation of approximately 12,000 cubic yards of sand and gravel to the desired elevations and dimension for river sediments in the unnamed side channels. The purpose is to maximize the inundation of Mean High Water (MHW) tidal influx, as recorded at the nearby gage in Crescent City, in the channels. The channel dimensions (length, width, depth) will be scaled in order to reflect the hydraulic relationship between the tidal prism (the volume of water between high and low tides) discharges and the channel dimensions. The biodiversity and species richness of an area is determined by the depth and frequency of inundation in the area. Large rootwads and logs will be secured by keying to the bank with the bole end of root wads facing downstream to increase cover area and stability. Rootwads and Large Woody Debris (LWD) will have one end partially buried in the bank. Channel shape is determined by the following features: sinuosity and meander characteristics (planform), the shape, width, depth from bank to bank and across the flood plain (cross-section), and the slope and the variability of slope along the channel bed (profile). These features are interrelated; therefore altering one feature will affect the other features. The proposed changes in planform will take advantage of the existing topographic and vegetative features. Willow posts will be planted adjacent to the excavated side-channels.

The project will involve the use of excavators, loaders, and dump trucks. Equipment will access the project via existing roads; no channel crossings are required. Excavated sediment will be transported by dump trucks to approved sites. Excavation sites will be isolated from the river with anchored silt fencing and sediment berms until all activities are completed, then the berms and silt fencing will be removed. Excavation activities will occur between June 15 and October 15. All activities will comply with the Letter of Permission for Gravel Mining and Excavation Activities (LOP 2003-2), including pre and post extraction surveys to establish desired elevations and contours. In addition, surveys conducted during construction activities will assure construction grade control. Trenching activities will only be conducted between July 15 through August 30 to avoid and/or minimize impact to migrating or rearing salmonids. All trenches created in the low flow channel will have large woody debris placed to provide habitat for salmonids.

Receiving Waters: Smith River Plain Hydrologic Subarea No. 103.11.

Total Linear Impacts: Length Temporarily Impacted: < 4000 linear feet

Length Permanently Impacted: none

Federal Permit: U.S. Army Corps of Engineers Letter of Permission (LOP) 2003-2, (file # 28222N)

Compensatory Mitigation: None required for this project.

Non-compensatory Mitigation: Non-compensatory mitigation measures include Best Management Practices (BMP) to prevent or minimize impacts to Waters of the United States from construction related erosion and sediment, or accidental spills associated with equipment, as described in Section 3 of the "*California Stormwater Best Management Practices Handbook*. Sediment control measures include, but are not limited to, use of berms from extracted materials and absorbent pads for temporary run-off control. The applicant will implement mitigation and impact avoidance measures during the aggregate extraction processes including; maintenance and daily inspection of equipment, off site fueling of equipment and dust control measures. Monitoring for effectiveness of the salmonid habitat restoration includes snorkeling surveys conducted weekly from May through July 2007, in order to record species observed and the distance of the species from the enhanced cover. In addition, surface and bottom measurements of salinity, dissolved oxygen and temperature will be recorded throughout the project area. The

proposed project will minimize impacts to listed species by avoiding activities during sensitive ecological periods and observance of designated setback zones. Sediment removed will be stored at storage sites on Reservation Ranch property. The California Department of Fish and Game Lake or Streambed Alteration Agreement (1600) is pending.

CEQA Compliance: The Del Norte County Planning, as the lead California Environmental Quality Act agency, certified a Negative Declaration (SCH # 2000042093) on July 5, 2000.

Standard Conditions: Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.

2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions: Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

1) The applicant shall notify Regional Water Board staff at least five working days (working days are Monday – Friday) prior to the commencement of the project, with details regarding the schedule of operations, to allow staff the opportunity to be present onsite and to answer any public inquiries that may arise regarding the project.

2) A copy of this permit must be provided to all contractors and subcontractors conducting work on this project, and a copy must be in their possession at the work site. It is the applicant's responsibility to ensure that the contractor and all subcontractors are provided a copy of this permit.

3) Adequate Best Management Practices for sediment and turbidity control shall be implemented and in place during and after construction in order to ensure that no silt or sediment enters surface waters.

4) If, at any time, an unauthorized discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and Regional Water Board staff shall be notified promptly.

5) No debris, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State.

6) The Applicant shall comply with the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activities and shall implement an adequate Storm Water Pollution Prevention Plan.

7) Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States and shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the applicant use any vehicle or equipment, which leaks any substance that may impact water quality.

8) Project activities shall comply with provisions in the North Coast Region Water Quality Control Plan (Basin Plan).

9) The project site may be visited and assessed by Regional Water Board staff to document compliance with this certification.

10) All activities and Best Management Practices will be conducted as described in this Permit and the application for this project.

11) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the applicant, the applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address, and telephone number of the person(s) responsible for contact

with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

Water Quality Certification: I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from the Reservation Ranch Smith River Estuary Enhancement Pilot Project (Facility No. 1A06052WNDN) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 (" Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)], and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on July 10, 2011. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Diana Henrioulle of our staff at (707) 576-2350 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine Kuhlman
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification"

cc: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 333 Market Street, San Francisco, CA 94599
U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502
Mr. Oscar Balaguer, 401 Program Manager, Water Quality Certification Unit, SWRCB, 1001 I Street, 15th Floor, Sacramento, CA 95814